

Forest Service, Recreation, Heritage, and Wilderness Resource Southwestern Region

MEMBERSHIP BALANCE PLAN

1. Committee's Official Designation

Arizona National Scenic Trail Advisory Council

2. Authority

The Arizona National Scenic Trail Advisory Council (Council) is authorized pursuant to Section 5(d) of the National Trails System Act (Act) (Pub. L. 90-543), as amended through (Pub. L. 111-11), March 30, 2009 (16 U.S.C. §§ 1241 to 1251)) by the Secretary of Agriculture. The Council operates in accordance with the provisions of the Federal Advisory Committee Act (FACA) as amended, (5 U.S.C. App. 2).

3. Objectives and Scope of Activities

The purpose of the Council is to provide advice and recommendations to the Secretary of Agriculture, through the Chief of the Forest Service, on matters relating to the Arizona National Scenic Trail (Trail), as described in the Act.

4. Points of View Needed for the Council

The Arizona National Scenic Trail is a long-distance non-motorized trail stretching over 800 miles through National Forest, Bureau of Land Management, National Park Service, state, county and private lands. It connects deserts, mountains, forests, wilderness, canyons, historic sites, communities and people.

The authorizing legislation for the advisory council is specific in the requirement for one or more members to be appointed to *"represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations..."* (16U.S.C.1244)(d). These are the only interests specifically authorized, in addition to representation from federal agencies and states.

Potential members of the advisory council should have a vested interest in the trail and understand the importance of perpetuating and protecting the nature and purposes of the Trail, which include the natural landscapes and historical areas through which it passes, while taking into consideration other public interests along to the Trail corridor.

5. Other Balance Factors

Equal opportunity practices in accordance with USDA policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership will include to the extent possible, individuals with demonstrated ability to represent minorities, women and persons with disabilities.

The USDA prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program.

6. Quorum Requirements

The simple majority of members of the Council shall constitute a quorum. This includes the DFO. The operation of the Council shall not be impaired by the fact that a member has not been appointed as long as a quorum has been attained. Only appointed members may serve on the Council. If a member is unable to attend a meeting, the member may not send a representative to act in their stead.

7. Candidate Identification Process

The Council will be fairly balanced in its membership in terms of the points of view represented and the functions to be performed. Steps will be taken to encourage fresh points of view, such as establishing staggered membership terms and limiting the number of renewed memberships.

Nominees will be sought through an open and public process that includes, but is not limited to, nominees submitted by the Governor of each state through which the Trail passes, county governments, tribal governments, and organizations and individuals who are interested in the Trail.

The DFO will also utilize public meetings, press releases, and other media to solicit additional interest in the committee.

Vacancies on the Council will be filled as deemed necessary by the Council chair. Individual vacancies may be filled during the charter renewal process or may be filled sooner to ensure adequate balance on the Council.

Once candidates have been identified, their names and background data are submitted to the USDA White House Liaison's office for vetting. The vetting process includes a background check to determine if any of the candidates have a conflict of interest that would prohibit them from serving on the Council due to criminal or ethical violations.

8. Subcommittee Balance

The Council Chairperson, with the approval of the DFO, will recommend for appointment subcommittee members. There may not be enough seats in each category to provide for representation on subcommittees from all points of interest represented. The Council Chairperson will take into consideration the knowledge and interests needed to accomplish subcommittee tasks firstly, and secondly, balance in keeping with the balance plan to the extent possible.

9. Other Balance Factors

Equal opportunity practices in accordance with USDA policies will be followed in all appointments to the Council. To ensure that the recommendations of the Council have taken into account the needs of the diverse groups served by USDA, membership will include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

10. Legal Background

Section 5(b)(2) of the FACA requires "...the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee." The corresponding FACA regulations reiterate this requirement at 41 CFR § 102-3.30(c), and, for discretionary committees being established, renewed, or reestablished, require agencies to provide a description of their plan to attain fairly balanced membership during the charter consultation process with GSA (41 CFR § 102-3.60(b)(3)). The document created through this process is the Membership Balance Plan. The regulations further clarify that (1) the purpose of the membership balance plan is to ensure "that, in the selection of members for the advisory committee, the agency will consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the advisory committee;" and (2) "[a]dvisory committees requiring technical expertise should include persons with demonstrated professional or personal qualifications and experience relevant to the functions and tasks to be performed." (41 CFR § 102-3.60(b)(3)).

FACA mandates that Federal advisory committees be balanced in the points of view represented by the members, but leaves it to the discretion of each agency on how to do this. The FACA regulations offer guidance in achieving a balanced Federal advisory committee membership, which include considering:

- (i) The Federal advisory committee's mission;
- (ii) The geographic, ethnic, social, economic, or scientific impact of the Federal advisory committee's recommendations;

- (iii) The types of specific perspectives required, such as those of consumers, technical experts, the public at-large, academia, business, or other sectors;
- (iv) The need to obtain divergent points of view on the issues before the Federal advisory committee; and
- (v) The relevance of State, local, or tribal governments to the development of the Federal advisory committee's recommendations." (41 CFR § III of App. A to Subpart B)

Section 5 (§16U.S.C.1244)(d) of the National Trails System Act states "the Secretary charged with the administration of each respective trail shall.....establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment.....The members of each advisory council, which shall not exceed thirty-five in number shall serve for a term of two years and without compensation as such.....Members of each council shall be appointed by the appropriate Secretary as follows:

- (1) the head of each Federal department or independent agency administering lands through which the trail route passes, or his designee;
- (2) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;
- (3) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations.....and
- (4) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.

11. Date Prepared or Updated:

January 29, 2016